

23.04.406.0963

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

MUR 5238

Ivan Kaufman

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

The Commission found reason to believe that Ivan Kaufman ("Respondent"), violated 2 U.S.C. § 441a(a)(1)(A).

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Respondent, Ivan Kaufman, is an individual contributor. Schumer '98 (the "Committee") is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Pursuant to 2 U.S.C. § 441a(a)(1)(A), no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. Commission regulations require that for a contribution to be designated in writing for a particular election, a contribution check itself or an accompanying writing signed by the contributor must clearly indicate the particular election with respect to which the contribution is made. 11 C.F.R. § 110.1(b)(4). In the absence of such a designation, the contribution will be considered to be for the next election after the contribution is made. 11 C.F.R. § 110.1(b)(2)(ii). Commission regulations also require that any contribution made by more than one person shall include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. 11 C.F.R. § 110.1(k)(1).

3. Respondent contributed \$4,000 to Schumer '98 with regard to the 1998 primary election by check number 275. The check was drawn on a joint checking account shared by Respondent and his wife, but was signed only by Respondent. Respondent did not designate the contribution. Pursuant to 11 C.F.R. § 110.1(b)(4) and (b)(2)(ii), the entire contribution was attributed to Respondent for the next election in time and, consequently, exceeded the applicable contribution limitation by a total of \$3,000.

4. This contribution was not refunded, reattributed, or redesignated.

5. Respondent asserts that he did not intend to make an excessive contribution to the Committee or to violate the Federal Election Campaign Act. Rather, he contends, he and his wife intended to comply with the \$1,000 contribution limit in 2 U.S.C. § 441a(a)(1)(A) by making four separate \$1,000 contributions: one from Respondent and one from his wife for each of the primary and general election campaigns.

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1 6. The Committee failed to request that Respondent provide the treasurer with a signed
2 written redesignation of the contribution within 60 days of the treasurer's receipt of the
3 contribution, 11 C.F.R. § 110.1(b)(5)(ii)(B), or request that Respondent provide it with a signed
4 written reattribution of the contribution within 60 days, 11 C.F.R. § 110.1(k)(3). Committees are
5 required to refund within 60 days, or secure redesignations/reattributions within 60 days, of a
6 contribution which on its face exceeds the Federal Election Campaign Act's contribution
7 limitations. 11 C.F.R. §§ 103.3(b)(3); 110.1(b)(2) and 110.1(k)(3). If the Committee had sought
8 and received a reattribution and redesignation that complied with the requirements of 11 C.F.R.
9 §110.1, Respondent's contribution would have been considered to be within the limit stated at 2
10 U.S.C. § 441a(a)(1)(A).

11 V. Respondent contributed \$3,000 to Schumer '98 in excessive contributions in violation
12 of 2 U.S.C. § 441a(a)(1)(A). Respondent will cease and desist from violating 2 U.S.C.
13 § 441a(a)(1)(A).

14 VI. Respondent will pay a civil penalty to the Federal Election Commission in the
15 amount of \$1,500, pursuant to 2 U.S.C. § 437g(a)(5)(A).

16 VII. The Commission, on request of anyone filing a complaint under 2 U.S.C.
17 § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance
18 with this agreement. If the Commission believes that this agreement or any requirement thereof
19 has been violated, it may institute a civil action for relief in the United States District Court for
20 the District of Columbia.

21 VIII. This agreement shall become effective as of the date that all parties hereto have
22 executed same and the Commission has approved the entire agreement.

IX. Respondent shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY:


Gregory R. Baker
Acting Associate General Counsel

8/13/02
Date

FOR THE RESPONDENT:


Ivan Kaufman

7-15-02
Date

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